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SB 185
Senate Judiciary Committee Hearing
February 8, 2011

Testimony of John C. Sheehy as a proponent of the Act Abolishing the Death Penalty
And Replacing it with Life Imprisonment Without Possibility of Release.

Honorable Members of the Montana State Senate:

I am John C. Sheehy, a native of Butte and a resident of Helena, duly admitted to the practice of law in all the courts of Montana. It has been my honor to serve in every branch of Montana state government, first as chief deputy insurance commissioner, then as a member of the state house of representatives, then in the state senate, and finally as a justice on the Montana Supreme Court. My private trial practice of criminal and civil cases was chiefly in Billings for 30 years

I rise and stand in support of this Bill because it has the effect of abolishing the death penalty in criminal cases, to which punishment I am unalterably opposed. I have come to this position over a long period of close observation of the adverse workings and effects of the death penalty on the justice system.

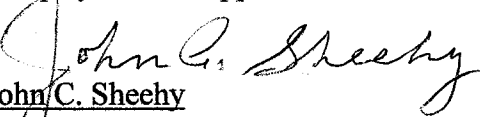
On the court, I came eventually to the point where I announced that I would dissent in death cases from any further approval of the death penalty. I was vindicated at least once, in a case where two young men were given the death penalty over my dissent, based on testimony against them from a female accomplice, who received only a jail sentence. The death penalties were later reduced to life sentences by a federal court where apparently it developed that the accomplice female had engaged in obnoxious relations with a jailer while awaiting the district court trial, unknown to the defense attorneys.

The assessment of a death penalty against a defendant by the state is unworthy of a civilized society. The state has recognized this in part by acting to eliminate the pain and horror engendered by former methods of executing defendants, such as firing squads, hanging, electrocution or gas chambers. Yet our present method is no more humane than the former methods. Our present law requires the punishment of death to "be inflicted by administration of a continuous, intravenous injection of a lethal quantity of an ultra-fast-acting barbiturate in combination with a chemical paralytic agent" until the defendant is dead. (Section 46-19-103 (1)(3), MCA) Is death thereby immediate and painless? No one can say, especially the defendant. And worse, no doctor, nurse or other medical person trained in the use of anesthesia is required. (Section 46-19-103 (6), MCA)

Now I want to say to the honorable Representatives on this committee what I would say to you if I were visiting with each of you personally. When one serves as you do in the top echelon of state government, you are shouldered with a solemn duty to view dispassionately how best the state will be served in decisions you make for the good of all. In many of the United States, in fact throughout the civilized world, the death penalty has been rejected as a punishment too excessive in any justice system. No one can point out any adverse effect to the public or to the justice system in those states or countries from such rejection.

It takes political courage to vote against the death penalty. For some of you this bill is a test of your courage. A reasonable answer for the public is that a sentence of life imprisonment with no possibility of release is a reasonable protection of society. In any event it is time for Montana to get out of the business of killing people.

I hope you will support this bill.


John C. Sheehy